

The Past and Present Facts on the Peace River Manasota Regional Water Supply Authority (Authority), Charlotte County and the Peace River Facility (PRF)

November 2013

In 1979, General Development Utilities (GDU) constructed a 6.0 millions of gallons per day (MGD) Water Treatment Plant between the Peace River and Kings Highway in DeSoto County to serve their customers in Lake Suzy, Port Charlotte and the City of North Port. In 1987, those water plant facilities (PRF) were expanded to 12.0 MGD, supported by an intake structure on the Peace River, a 600 thousand gallon reservoir and 12 Aquifer Storage and Recovery (ASR) wells.

General Development Corporation (GDC) and their subsidiary GDU had financial problems and, according to the 1991 Revenue Bond Issuance docs, GDC was in bankruptcy proceedings. Several concerns led the Authority, Charlotte County, DeSoto County and North Port to begin considering ways to acquire the GDU Facilities in earnest: water and sewer rates; the need for service expansion; state-mandated requirements that utility and other infrastructure be in place to serve future development; and the lack of local, public control over the operation and planning of the GDU facilities. All three local governments/municipalities initiated a condemnation suit to accomplish this, which resulted in a series of negotiations and agreements, which ended up in court. This further resulted in an Order of Taking rendered by the court, ordering Charlotte County to take over the assets of GDU in Charlotte County and the PRF in 1991. Charlotte County purchased those assets and was made solely responsible for financing the entire acquisition, which we accomplished with 2 bond issuances (1991 and 1994) totaling approximately \$136M for all capital improvements

The May 21, 1991 an Acquisition Agreement between Charlotte, DeSoto, Manatee and Sarasota counties, the Authority and the Southwest Florida Water Management District (SWFWMD) ***required Charlotte County, as part of the agreement, to transfer all ownership and control of the recently upgraded PRF to the Authority.*** The water produced by the PRF, 10.758 MGD, was dedicated to Charlotte County.

A determination of the capital cost of Charlotte County's bond issuance related to the PRF asset was determined in 1994 to be \$34,594,850, of which SWFWMD contributed \$1.8M and the remaining balance of \$32,794,850 was the financial responsibility of the Authority to pay back to Charlotte County. An annual payment was to be made by the Authority to Charlotte County until the quick-take-related bonds were retired in approximately 30 years. The Authority collects this money every year from all members who received a portion of the original 12.0 MGD- PRF capacity and sends a check to Charlotte County. Since Charlotte County received 89.65% of the original capacity, we provide the majority of the payment to ourselves.

On March 8, 1996 the Authority and participating members executed the Amended Peace River Option (PRO) Water Supply Contract. This agreement funded a 6 MGD expansion of the PRF, the addition of 9 more ASR wells and a 42" pipeline to Sarasota County. A water supply contract allocated 2 MGD of the 6 MGD expansion to Charlotte County. By the time this expansion was completed in 2001, the PRF had the ability to deliver 18.0 MGD to its customers on an average day, 24.0 MGD on peak days.

In October 2005, a brand new Master Water Supply Contract (MWSC) was approved by the Authority members/customers, which superseded all prior water supply contracts and allocated debt service cost for all existing Authority infrastructure. During this same time, it was envisioned by the members/customers to expand the water supply facilities once more to meet increased demands, so language addressing the Authority's Regional Expansion Program (REP) to build a second 6 billion gallon (BG) reservoir and make capital improvements to the PRF were included in the MWSC. Initial bonds were issued in 2005, in order to begin design and construction on what eventually became what exists today as a 48 MGD conventional surface water treatment facility, supported by a 120 MGD intake on the Peace River, a 6.5 BG off-stream raw water storage system, and 21 aquifer storage recovery wells (capacity 6.3 BG). Additional bonds were issued in 2010 by the Authority to finish paying for the capital improvement, which Charlotte County opted out of and made a cash payment to the Authority instead. Charlotte County received an additional water supply allocation of 3.342 MGD out of the 14.8 MGD expansion project, for a grand total allocation of 16.12 MGD by 2009. Water Allocation Quantities (MGD) Table for all Authority customers, by project, is as follows:

Expansion Phase	Charlotte Co	DeSoto Co	Sarasota Co	North Port	TOTAL
1991 Original PRF	10.758	0.050	0.000	1.192	12.000
2001 PRO	2.000	0.500	3.500	0.000	6.000
2009 REP	3.342	0.125	9.725	1.508	14.700
TOTAL	16.128	0.675	13.225	2.700	32.728
Base Rate: Non Capital %	49.28%	2.06%	40.41%	8.25%	100.00%

In 2010, the Authority invited engineering consultant HDR to conduct a field inspection of the PRF, in order to determine repair and maintenance needs. As a result of that inspection, HDR submitted a report to the Authority on 10/29/10, describing work that should be completed in order to extend the life of the assets and allow them to continue providing reliable water treatment through the next 20-year period. Most of the assets needing repairs were part of the original 1991 plant and the Engineer's Opinion of Probable Project Cost (EOPPC) for all the work was \$9.5M. No new capacity would be created as a result of the repair work, only repair and upgrades to the various components. This information was then shared and discussed with the members/customers over the course of the next year and The Authority Board voted to embark on an engineering design study. This effort was completed by Black & Veatch, beginning with a Design Technical Memo, dated 3/12/13, with a new EOPPC of \$11.7M.

Due to the fact that the identified PRF repair work was a vast and expensive undertaking and that some of it was recommended strictly for the sake of convenience rather than necessity, Charlotte County asked one of their engineering consultants, Jones Edmunds, in the Spring of 2013, to assist CCU staff with field inspections of the PRF assets identified as requiring rehabilitation work, in order to better understand the project. Conversations about how the work costs should be allocated among the member/customers were being held at Authority/customer staff level, with some participants demanding that Charlotte County pay for 89.65% of the cost. Cost allocation discussions needed to be finalized so the improvement work could proceed forward.

On 6/17/13 Jones Edmunds submitted a Technical Memo to CCU, describing their review and evaluation of the proposed improvements to the PRF. In their determination, most of the effort proposed to be accomplished was typical renewal and replacement (R&R) work for a facility that had been successfully operating for more than 30 years. While the proposed major unit process improvements recommended to be done may have improved operational efficiency, they did not increase plant capacity, and was, therefore, ordinary R&R. Of the total \$11.7M EOPPC, the value of this part of the project construction work effort was estimated at \$4.9M.

Jones Edmunds also determined that some of the recommended improvements could be classified as R&R –Reconstruction of Major Components or a Modification to improve Operation and Maintenance (O&M), in that they use new technology to improve operational efficiency. Examples of this classification included the demolition and replacement of the existing alum building/tanks and caustic building/tanks in order to consolidate them into one single location. Of the total \$11.7M EOPPC, the value of this part of the project construction work effort was estimated at \$6.8M.

While Jones Edmunds was evaluating the technical details of the PRF repair work, Charlotte County asked attorney Ed de la Parte, Jr. to provide an opinion on the facility improvement project and how the costs should be recovered by the Authority. Mr. de la Parte completed his review of all relevant documents and provided his legal opinion to Charlotte County on 7/31/13. Documents examined included the Interlocal Agreement between Charlotte, DeSoto, Manatee, Sarasota and Hardee counties, dated 2/26/82; a new Interlocal Agreement between Charlotte, DeSoto, Manatee and Sarasota counties to re-establish the Authority, dated 2/1/84; the Amended Interlocal Agreement among the 4 local governments, dated 5/21/91; the Second Amended Interlocal Agreement Creating the Peace River/Manasota Regional Water Supply Authority, dated 10/5/05; the Peace River/Manasota Regional Water Supply Authority Master Water Supply Contract, dated 10/5/05, the 10/29/10 HDR Report on the 1991 Facilities Rebuild; the 3/12/13 Black & Veatch Design Technical Memo; various worksheets supplied by the Authority on proposed project cost allocations; and the 6/17/13 Jones Edmunds Technical Memo.

Upon completing his review of above-said documents, Mr. de la Parte opined that for the portion of the project deemed ordinary R&R by Jones Edmunds (\$4.9M), the only legal method for the Authority to recover costs is through the Base Rate Charge: Non-Capital Cost Component, which is the rate established by resolution of the Authority for payment of all R&R costs of the Authority Water Supply Facilities, among other things. Mr. de la Parte further stated that, short of amending the MWSC, since the \$6.8M portion of the project classified as R&R –Reconstruction of Major Components or a Modification to improve Operation and Maintenance (O&M), there are no other rates existing for the Authority to use to recover these types of project costs except ordinary R&R, which is recovered through the Base Rate Charge: Non-Capital Cost Component. This charge is based on customer metered water usage and shall be allocated as the same charge per thousand gallons used for each customer (common rate method). Therefore, referring to the Water Allocation Quantities Table above, Charlotte County should be charged 49.23% of this portion of the identified costs, which is, historically, how all R&R work costs have been allocated in the past.

In summary, all private and public water utilities needing to renew, repair, rehabilitate, replace or upgrade their facilities that serve all their customers, use their rates to recover costs and accomplish the work. Once Charlotte County was ordered, in 1991, to transfer ownership and control of the Peace River Facilities to the Authority for operation and maintenance, it became their

responsibility to make sure all of the facilities were kept in good running condition to deliver contractual water demands to their customers. As each additional expansion was phased in, all components became an integral part of a whole system working together to treat, store and deliver water to the customers.

Authority rates were designed to make sure each customer was charged a fair and equitable pro-rata share of the costs to operate and maintain the system. Charlotte County has been paying their fair and equitable share of the O&M/R&R costs as well as the capital construction debt for 22 years. The "Capital/ Debt Component" portion of our Base Rate Charge is less per thousand gallons than some of the other customers of the Authority because it was cheaper to build water treatment facilities in 1986 than it was in 1998 or 2008 when other customers finally decided to order water from The Authority. Charlotte County has never had any other options for water supply except The Authority's PRF, unlike Sarasota or Manatee counties or the City of North Port who have their own water treatment plants. The PRF was designed to serve Charlotte County from the beginning of its inception, virtually making The Authority a sole source provider. As a result, Charlotte County's water rates are much higher than Sarasota County's, Manatee County's or North Port's. In FY14, Charlotte County's allocation for the Non-Capital (O&M/R&R) costs is \$4.7M out of a \$9.5M budget. Charlotte County still holds all the debt for the original 1991 PRF and incurred more debt for each subsequent expansion, sometimes through participation with The Authority's bonds and sometimes through other borrowing sources.

We don't mind paying our fair share; we just don't feel it is right to burden our customers for other members' fair share, too.